

### **DETAILED ACTION**

This communication is a second Non-Final Office Action on the merits. Claims 1, 9, 23, and 33 have been amended. Claim 27-32 and 34 have been canceled. Claims 1-26, and 33 are currently pending and have been considered below.

#### ***Claim Objections***

1. Claim 1 objected to because of the following informalities: Claim 1 is labeled as an "original" rather than "currently amended". Although, Claim 1 has been amended. .Appropriate correction is required.

#### ***Claim Rejections - 35 USC § 101***

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1-26 and 33 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. In order for a method to be considered a "process" under §101, a claimed process must either: (1) be tied to another statutory class (such as a particular apparatus) or (2) transform underlying subject matter (such as an article or materials). *Diamond v. Diehr*, 450 U.S. 175, 184 (1981); *Parker v. Flook*, 437 U.S. 584, 588 n.9 (1978); *Gottschalk v. Benson*, 409 U.S. 63, 70 (1972). If neither of these requirements is met by the claim, the method is not a patent eligible process under §101 and is non-statutory subject matter. With respect to

Art Unit: 3689

claims 1-26 and 33, the claim language does not include the required tie or transformation and thus is directed to nonstatutory subject matter.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-3, and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kalagnanam et al. (6,873,967) in view of Hetts (December 5, 1999).

**As per Claim 1**, Kalagnanam et al. discloses a method for providing a power tool combo kit from a provider to a customer, the method comprising the acts of:

providing an available group including multiple power tools of various tool models (Col. 4, Lines 65-Col. 6, Line 35, discloses providing a list of multiple products of various models (i.e. brands));

receiving a selection from the customer of a plurality of power tools from the available group (Col. 8, Lines 23-44, discloses receiving a list of item choices with constraints submitted by the shopper);

configuring the selection of power tools as a combo kit having a particular price (Abstract; Col. 5, Lines 17-41, discloses computing one or more list of product combinations that satisfy the constraints given by a user); and

providing the combo kit including the selected group of multiple selected power tools to the customer (Col. 8, Lines 23-44, via presenting the shopper with a list of possible combinations of products where the shopper selects a combination of products).

However, Kalagnanam et al. fails to explicitly disclose a combo kit consisting of power tools.

Hetts discloses providing a combo kit consisting of power tools (Abstract, discloses a 14.4-volt Home Project Combo kit that consists of the three most commonly used power tools).

Therefore, from the teaching of Hetts, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system of providing one or more lists of product combinations to one or more shoppers of Kalagnanam et al. to include a combo kit consisting of power tools as taught by Hetts in order to provide the customer the ability to purchase a desired set of power tools.

**As per Claim 2**, Kalagnanam et al. discloses the claimed invention as applied to Claim 1, above. However, Kalagnanam et al. fails to explicitly disclose providing a carrying case.

Hetts discloses providing a carrying case having sufficient space to store the selected power tools (Abstract, discloses a lightweight carrying case having sufficient space to store the power tools, batteries, and the charger).

Therefore, from the teaching of Hetts, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system of

Art Unit: 3689

providing one or more lists of product combinations to one or more shoppers of Kalagnanam et al. to include providing a carrying case as taught by Hetts in order to provide carrying convenience to the customer when transporting the power tools.

**As per Claim 3**, Kalagnanam et al. discloses the claimed invention as applied to Claim 1, above. However, Kalagnanam et al. fails to explicitly disclose the power tools being cordless; and the combo kit containing a battery charger and a rechargeable battery.

Hetts discloses wherein at least two of the selected power tools in the selected group are cordless power tools (Abstract, discloses a cordless, variable-speed, reversible drill/driver being provided in the combo kit), and wherein the act of providing the combo kit further comprises the act of providing a batter charger and at least one rechargeable batter compatible with the battery charger, at least one of the selected cordless power tools being compatible with the battery (Abstract, discloses the combo containing two interchangeable battery packs compatible with both power tools and a one-hour charger).

Therefore, from the teaching of Hetts, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system of providing one or more lists of product combinations to one or more shoppers of Kalagnanam et al. to include the power tools being cordless; and the combo kit containing a battery charger and a rechargeable battery as taught by Hetts in order to provide a means to use the power tools provided in the combo kit.

**As per Claim 15**, Kalagnanam et al. discloses a method for providing a power tool combo kit from a provider to a customer, the method comprising the acts of:

providing an available group including multiple cordless power tools of various tool models (Col. 4, Lines 65-67 – Col. 6, Line 35, discloses providing a list of multiple products of various models (i.e. brands));

receiving a customer request of multiple requested power tools from the available group (Col. 8, Lines 23-44, discloses receiving a list of item choices with constraints submitted by the shopper);

providing a selected group of multiple selected power tools in response to the customer request, the selected group corresponding to the customer request (Col. 8, Lines 23-44, via presenting to the shopper a list of possible combinations of products satisfying the constraints in the item choice profile where the shopper selects a combination of products); and

providing a combo kit (Col. 8, Lines 23-44, discloses providing the customer with the selected combination of products).

However, Kalagnanam et al. fails to explicitly disclose the power tools being cordless; and the combo kit containing a battery charger and a rechargeable battery.

Hetts discloses wherein at least two of the selected power tools in the selected group are cordless power tools (Abstract, discloses a cordless, variable-speed, reversible drill/driver being provided in the combo kit), and wherein the act of providing the combo kit further comprises the act of providing a batter charger and at least one rechargeable batter compatible with the battery charger, at least one of the selected

Art Unit: 3689

cordless power tools being compatible with the battery (Abstract, discloses the combo containing two interchangeable battery packs compatible with both power tools and a one-hour charger).

Therefore, from the teaching of Hetts, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system of providing one or more lists of product combinations to one or more shoppers of Kalagnanam et al. to include the power tools being cordless; and the combo kit containing a battery charger and a rechargeable battery as taught by Hetts in order to provide a means to use the power tools provided in the combo kit.

5. Claims 4 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kalagnanam et al. (6,873,967) in view of Hetts (December 5, 1999) and in further view of Parks et al. (5,148,094).

The Kalagnanam et al. and Hetts combination discloses the claimed invention as applied to Claims 3 and 15, above. However, the combination fails to explicitly disclose a battery being incompatible with a power tool and a battery charger being operable with two different batteries.

Parks et al. discloses a charger with a universal battery pack receptacle with the concept of the first-mentioned batter is incompatible with another of the selected cordless power tools, and a second battery is compatible with the other of the selected cordless power tools and incompatible with the at least one of the selected cordless power tools, the battery charger being operable to charge the first battery and the second battery (Col. 1, Lines 47-68; Col. 2, Lines 1-7, discloses having a universal

Art Unit: 3689

charger that is compatible with power tools having different battery pack designs (i.e. powers tools being incompatible based on different battery pack designs).

Therefore, from the teaching of Parks et al., it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the Kalagnanam et al. and Hetts combination to include a battery being incompatible with a power tool and a battery charger being operable with two different batteries as taught by Parks et al. in order to eliminate the need of multiple chargers for power tools having different battery types.

6. Claims 5, 6, 16, 17, 23, 24, and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kalagnanam et al. (6,873,967) in view of Hetts (December 5, 1999) and in further view design choice.

**As per Claims 5 and 16**, the Kalagnanam et al. and Hetts combination discloses the claimed invention as applied to Claims 1 and 15, above. However, the combination fails to explicitly disclose at least two power tools of the same tool type.

It would have been an obvious matter of design choice to modify the selected group to include power tools of the same tool type since applicant has not disclosed that a combo kit containing at least two power tools of the same tool type solves any stated problem or is for any particular purpose and it appears that the invention would perform equally well with any other type or variation of power tools being included in the combo kit.

**As per Claim 6 and 17**, the Kalagnanam et al. and Hetts combination discloses the claimed invention as applied to Claims 5 and 16, above. However, the combination fails to explicitly disclose at least two power tools of the same tool model.

It would have been an obvious matter of design choice to modify the selected group to include power tools of the same tool model since applicant has not disclosed that a combo kit containing at least two power tools of the same tool model solves any stated problem or is for any particular purpose and it appears that the invention would perform equally well with any other type or variation of power tools being included in the combo kit.

**As per Claim 23**, Kalagnanam et al. discloses a method for providing a power tool combo, the method comprising the acts of:

providing an available group including multiple cordless power tools of various tool models (Col. 4, Lines 65-67 – Col. 6, Line 35, discloses providing a list of multiple products of various models (i.e. brands));

selecting a selected a plurality of cordless power tools from the available group (Col. 8, Lines 23-44, discloses the server selecting from the electronic catalog a list of products which satisfy the constraints in the item choice profile);

selecting a battery charger (Col. 8, Lines 23-44, discloses the server selecting from the electronic catalog a list of products which satisfy the constraints in the item choice profile); and

configuring the selected cordless power tools, the battery charger, and the at least one rechargeable battery as a combo kit at a predetermined price (Col. 5, Line 42-



Art Unit: 3689

Col. 6, Line 35, discloses configuring product bundles (i.e. combo kits) based on the customer's input constraints, limit price, etc...).

However, Kalagnanam et al. fails to explicitly disclose at least two power tools of the same tool type; and the combo kit containing a battery charger and a rechargeable battery, and cordless power tools.

Hetts discloses wherein at least two of the selected power tools in the selected group are cordless power tools (Abstract, discloses a cordless, variable-speed, reversible drill/driver being provided in the combo kit), and wherein the act of providing the combo kit further comprises the act of providing a batter charger and at least one rechargeable batter compatible with the battery charger, at least one of the selected cordless power tools being compatible with the battery (Abstract, discloses the combo containing two interchangeable battery packs compatible with both power tools and a one-hour charger).

Therefore, from the teaching of Hetts, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system of providing one or more lists of product combinations to one or more shoppers of Kalagnanam et al. to include the power tools being cordless; and the combo kit containing a battery charger and a rechargeable battery as taught by Hetts in order to provide a means to use the power tools provided in the combo kit.

It would have been an obvious matter of design choice to modify the selected group to include power tools of the same tool type since applicant has not disclosed that a combo kit containing at least two power tools of the same tool type solves any stated

Art Unit: 3689

problem or is for any particular purpose and it appears that the invention would perform equally well with any other type or variation of power tools being included in the combo kit.

**As per Claim 24**, the Kalagnanam et al. and Hetts combination discloses the claimed invention as applied to Claim 23, above. However, the combination fails to explicitly disclose at least two power tools of the same tool model.

It would have been an obvious matter of design choice to modify the selected group to include power tools of the same tool model since applicant has not disclosed that a combo kit containing at least two power tools of the same tool model solves any stated problem or is for any particular purpose and it appears that the invention would perform equally well with any other type or variation of power tools being included in the combo kit.

**As per Claim 26**, Kalagnanam et al. discloses receiving a customer request of multiple requested power tools from the available group, the selected group corresponding to the customer request (Col. 8, Lines 23-44, discloses receiving a list of item choices with constraints submitted by the shopper. Col. 8, Lines 23-44; discloses the server selecting from the electronic catalog a list of products which satisfy the constraints in the item choice profile.).

7. Claims 7, 21, and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kalagnanam et al. (6,873,967) in view of Hetts (December 5, 1999) and in further view *Hardware Show Broadens Mix* (August 4, 1997).

The Kalagnanam et al. and Hetts combination discloses the claimed invention as applied to Claims 1 and 15, above. However, the combination fails to explicitly disclose the available group including both cordless power tools and corded power tools.

*Hardware Show Broadens Mix* discloses power tool kits with the concept of the available group including both cordless power tools and corded power tools (Page 1, discloses a corded version of the Black & Decker wizard rotary tool being included in power tool kits).

Therefore, from the teaching of *Hardware Show Broadens Mix*, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the Kalagnanam et al. and Hetts combination to include the available group including both cordless power tools and corded power tools as taught by *Hardware Show Broadens Mix* in order to meet the needs of the customer.

8. Claims 8 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kalagnanam et al. (6,873,967) in view of Hetts (December 5, 1999) and in further view Andrews (6,285,986).

The Kalagnanam et al. and Hetts combination discloses the claimed invention as applied to Claims 1 and 15, above. However, the combination fails to explicitly disclose the combo kit as a single purchase unit.

Andrews discloses a method for combining products from one or more vendors together to be sold as a unit with the concept of the combo kit as a single purchase unit (Abstract, discloses combining products and services from one or more vendors together to be sold as a single unit).

Therefore, from the teaching of Andrews, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the Kalagnanam et al. and Hetts combination to include the combo kit as a single purchase unit as taught by Andrews in order to provide a cost benefit to the customer when purchasing the combo kit.

9. Claims 9, 10, and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kalagnanam et al. (6,873,967) in view of design choice.

**As per Claim 9**, Kalagnanam et al. discloses a method for providing a power tool combo kit, the method comprising the acts of:

providing an available group including multiple power tools of various tool models (Col. 4, Lines 65-67 – Col. 6, Line 35, discloses providing a list of multiple products of various models (i.e. brands));

selecting a plurality of power tools from the available group (Col. 8, Lines 23-44, discloses the server selecting from the electronic catalog a list of products which satisfy the constraints in the item choice profile); and

providing a combo kit to the customer, the combo kit including the selected power tools (Col. 8, Lines 23-44, via presenting to the shopper a list of possible combinations of products where the shopper selects a combination of products).

However, Kalagnanam et al. fails to explicitly disclose the selected group including power tools of the same tool type.

It would have been an obvious matter of design choice to modify the selected group to include power tools of the same tool type since applicant has not disclosed that

Art Unit: 3689

a combo kit containing at least two power tools of the same tool type solves any stated problem or is for any particular purpose and it appears that the invention would perform equally well with any other type or variation of power tools being included in the combo kit.

**As per Claim 10**, Kalagnanam et al. discloses the claimed invention as applied to Claim 9, above. However, Kalagnanam et al. fails to explicitly disclose at least two power tools of the same tool model.

It would have been an obvious matter of design choice to modify the selected group to include power tools of the same tool model since applicant has not disclosed that a combo kit containing at least two power tools of the same tool model solves any stated problem or is for any particular purpose and it appears that the invention would perform equally well with any other type or variation of power tools being included in the combo kit.

**As per Claim 14**, Kalagnanam et al. discloses receiving a desired request from a customer of multiple requested power tools from the available group, and wherein the selected group corresponds to the desired request (Col. 8, Lines 23-44, discloses receiving a list of item choices with constraints submitted by the shopper. Col. 8, Lines 23-44; discloses the server selecting from the electronic catalog a list of products which satisfy the constraints in the item choice profile.).

10. Claims 11 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kalagnanam et al. (6,873,967) in view of design choice and in further view of Hetts (December 5, 1999).

**As per Claim 11**, the Kalagnanam et al. and design choice combination discloses the claimed invention as applied to Claim 9, above. However, the combination fails to explicitly disclose the power tools being cordless; and the combo kit containing a battery charger and a rechargeable battery.

Hetts discloses wherein at least two of the selected power tools in the selected group are cordless power tools (Abstract, discloses a cordless, variable-speed, reversible drill/driver being provided in the combo kit), and wherein the act of providing the combo kit further comprises the act of providing a batter charger and at least one rechargeable batter compatible with the battery charger, at least one of the selected cordless power tools being compatible with the battery (Abstract, discloses the combo containing two interchangeable battery packs compatible with both power tools and a one-hour charger).

Therefore, from the teaching of Hetts, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the Kalagnanam et al. and design choice combination to include the power tools being cordless; and the combo kit containing a battery charger and a rechargeable battery as taught by Hetts in order to provide a means to use the power tools provided in the combo kit.

**As per Claim 12**, the Kalagnanam et al. and design choice combination discloses the claimed invention as applied to Claim 11, above. However, the combination fails to explicitly disclose providing a carrying case.

Hetts discloses providing a carrying case having sufficient space to store the selected power tools, the battery charger, and the battery (Abstract, discloses a

Art Unit: 3689

lightweight carrying case having sufficient space to store the power tools, batteries, and the charger).

Therefore, from the teaching of Hetts, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the Kalagnanam et al. and design choice combination to include providing a carrying case as taught by Hetts in order to provide carrying convenience to the customer when transporting the power tools.

11. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kalagnanam et al. (6,873,967) in view of design choice and in further view of Andrews (6,285,986).

The Kalagnanam et al. and design choice combination discloses the claimed invention as applied to Claim 9, above. However, the combination fails to explicitly disclose the combo kit as a single purchase unit.

Andrews discloses a method for combining products from one or more vendors together to be sold as a unit with the concept of the combo kit as a single purchase unit (Abstract, discloses combining products and services from one or more vendors together to be sold as a single unit).

Therefore, from the teaching of Andrews, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the Kalagnanam et al. and design choice combination to include the combo kit as a single purchase unit as taught by Andrews in order to provide a cost benefit to the customer when purchasing the combo kit.

Art Unit: 3689

12. Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kalagnanam et al. (6,873,967) in view of Hetts (December 5, 1999) and in further view of Parks et al. (5,148,094) and Kubale et al. (7,339,350).

The Kalagnanam et al., Hetts, and Parks et al. combination discloses the claimed invention as applied to Claim 19, above. However, the combination fails to explicitly disclose a third cordless power tool of the selected group being compatible with both the first battery and the second battery.

Kubale et al. discloses an electrical combination including a battery pack and a power tool with the concept of a third cordless power tool of the selected group being compatible with both the first battery and the second battery (Col. 2, Lines 42-58, discloses a power tool being compatible with a "slide-on" configured battery and a "tower" configured battery via an adapter).

Therefore, from the teaching of Kubale et al., it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the Kalagnanam et al., Hetts, and Parks et al. combination to include a third cordless power tool of the selected group being compatible with both the first battery and the second battery in order to allow the customer to utilize the batteries interchangeably with the power tools.

13. Claim 25 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kalagnanam et al. (6,873,967) in view of Hetts (December 5, 1999) and in further view design choice and Andrews (6,285,986).



Art Unit: 3689

The Kalagnanam et al., Hetts, and design choice combination discloses the claimed invention as applied to Claim 23, above. However, the combination fails to explicitly disclose a single purchase unit.

Andrews discloses a method for combining products from one or more vendors together to be sold as a unit with the concept of the combo kit as a single purchase unit (Abstract, discloses combining products and services from one or more vendors together to be sold as a single unit).

Therefore, from the teaching of Andrews, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the Kalagnanam et al., Hetts, and design choice combination to include the combo kit as a single purchase unit as taught by Andrews in order to provide a cost benefit to the customer when purchasing the combo kit.

14. Claim 33 is rejected under 35 U.S.C. 103(a) as being unpatentable over *Amazon.com* (May 21, 2002) in view of design choice.

*Amazon.com* discloses a combo kit comprising: a first power tool of a first tool type; and a second power tool of the first tool type (Page 2, discloses a Makita power tool combo kit containing two saws of a first tool type: a circular saw; and a reciprocating saw).

However, *Amazon.com* fails to explicitly disclose the first power tool and the second power tool being the same tool model.

It would have been an obvious matter of design choice to modify the selected group to include power tools of the same tool model since applicant has not disclosed

Art Unit: 3689

that a combo kit containing at least two power tools of the same tool model solves any stated problem or is for any particular purpose and it appears that the invention would perform equally well with any other type or variation of power tools being included in the combo kit.

### ***Response to Arguments***

15. Applicant's arguments filed July 10, 2008 have been fully considered but they are not persuasive.

As per Claims 33, Applicant argues that having the first power tool and the second power tool have the same tool model is not a matter of design choice. Applicant states that "the ability for a customer to select two of the same tool model at a combo kit price is a unique feature of the invention not previously available to customers".

Examiner asserts that Applicant has failed to show how the performance of selecting two power tools of the same tool model will affect the selection process. Examiner asserts that the process of selecting a plurality of power tools would be performed to same when the tools are of different models and when tools are of the same model.

Examiner asserts it would have been an obvious matter of design choice to modify the selected group to include power tools of the same tool model since it appears that the invention would perform equally well with any other type or variation of power tools being included in the combo kit.

As per Claims 1, Applicant argues that Kalagnanam fails to disclose "receiving a selection from the customer of a plurality of power tools from the available group; and

Art Unit: 3689

configuring the selection of power tools as a combo kit having a particular price”.

Applicant's arguments with respect to claim 1 have been considered but are moot in view of the new ground(s) of rejection.

As per Claims 1-3 and 15, Applicant argues Kalagnanam fails to disclose "selection of a plurality of products from the consumer that get configured into a combo kit." In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., selection of a plurality of products) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). The claims recite selecting a plurality of power tools rather than products. Examiner asserts that the Kalagnanam and Hetts combination discloses selecting a plurality of power tools that get configured into a combo kit. Kalagnanam discloses selecting a plurality of products that get configured into a combo kit (Col. 5, Lines 17-41, via searching products in an online product catalog stored in a product database and computing one or more list of product combinations that satisfy the constraints given in the input). Hetts discloses providing a power tool combo kit (via Abstract). Examiner asserts it would have been obvious to combine the power tool combo kit taught by Hetts with the process of providing a customized product combination as taught by Kalagnanam so that the product selected by the customers include power tools in order to provide a customer the ability to purchase a power tool combination that satisfy the constraints given by the customer.

In response to arguments in reference to Claims 16-22, all rejections made towards the dependent claims are maintained due to the lack of reply by the applicant in regards to distinctly and specifically point out the supposed errors in the examiner's action in the prior Office Action (37 CFR 1.111 ). The Examiner asserts that the applicant only argues that the dependent claims should be allowable because the independent claims are unobvious and unpatentable over Kalagnanam in view of Hetts.

As per Claim 4, Applicant argues Parks fails to disclose the battery being incompatible with particular power tools. Examiner asserts that Park discloses a battery being incompatible with particular power tools (Col. 1, Line 12-25, discloses a battery pack being designed for power tools of different manufacturers due to the battery being incompatible with certain manufacturer's power tools).

In response to arguments in reference to Claim 19, all rejections made towards the dependent claims are maintained due to the lack of reply by the applicant in regards to distinctly and specifically point out the supposed errors in the examiner's action in the prior Office Action (37 CFR 1.111 ). The Examiner asserts that the applicant only argues that the dependent claims should be allowable because the independent claims are unobvious and unpatentable over Kalagnanam in view of Hetts and Parks.

As per Claims 5, 6, 16, and 17, Applicant argues that having at least two power tools of the same tool type or model is not a matter of design choice. Examiner asserts that Applicant has failed to show how the performance of having at least two power tools of the same tool type or model will affect the selection process. Examiner asserts that the process of selecting a plurality of power tools would be performed the same

Art Unit: 3689

when the tools are of different types or models and when tools are of the same type or model. Examiner asserts it would have been an obvious matter of design choice to modify the selected group to include power tools of the same type or model since it appears that the invention would perform equally well with any other type or variation of power tools being included in the combo kit.

Applicant's arguments with respect to claim 23 have been considered but are moot in view of the new ground(s) of rejection. Applicant argues that the Kalagnanam and Hetts combination fails to disclose the amended claim limitations. Examiner asserts the arguments have been addressed in the rejection stated above.

In response to arguments in reference to Claims 7-14, 18, 20-22, and 25, all rejections made towards the dependent claims are maintained due to the lack of reply by the applicant in regards to distinctly and specifically point out the supposed errors in the examiner's action in the prior Office Action (37 CFR 1.111 ).

### ***Conclusion***

16. Any inquiry concerning this communication or earlier communications from the examiner should be directed to FONYA LONG whose telephone number is (571)270-5096. The examiner can normally be reached on Mon-Thur 7:30am-6:00pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Janice Mooneyham can be reached on (571) 272-6805. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3689

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/F. L./

Examiner, Art Unit 3689

/Janice A. Mooneyham/

Supervisory Patent Examiner, Art Unit 3689